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TOWN ATTORNEY REPORT

DATE: May 10, 2001
FROM: Monroe D. Kiar 
RE: Litigation Update

1. Sunrise Water Acquisition Negotiations: At a previous Town Council Meeting, Mr. Willi brought the Town Council up to date on this matter and indicated that the Town is moving forward in its preparation for further negotiations with the City of Sunrise for the possible acquisition of the water system. One of our experts, Mr. Stanley Cohen anticipates being in South Florida around May 17, 2001 at which time he is to meet with Mr. Willi, the Town Attorney, the Town's special outside legal counsel, and individually with the Councilmembers to discuss further the progress being made regarding further negotiations with the City of Sunrise.
2. Ordonez, et al v. Town of Davie: Mr. Michael Burke, our outside legal counsel, has filed a Motion for Summary Judgment in this case and the Motion continues to be pending. Mr. Burke is quite confident that the various defendants named in this action will be dismissed as Defendants in this lawsuit. On May 4, 2001, the parties to this lawsuit attended a mediation conference pursuant to the Court's Order. Unfortunately, the mediation conference resulted in a total impasse and therefore, since the matter did not settle, this case will continue to be litigated in the United States District Court for the Southern District of Florida.
3. Sessa v. Town of Davie (Forman): The parties have executed a Stipulation Agreement agreeing to binding mediation. The Stipulation was approved by the Court and binding mediation has been tentatively scheduled for September, 2001 before retired judge, Gerald Mager.
4. Coastal Carting Ltd., Inc. v. City of Sunrise, et al: This matter has been settled by the Resource Recovery Board and the Plaintiffs, Waste Management and Coastal Carting Ltd. The Town is to be dismissed as a defendant in this lawsuit and is to receive a Special

Limited Release discharging it of any liability as to any of the claims or causes of action raised against the Town in this litigation. The Town of Davie executed a similar Special Limited Release which has been forwarded to Mr. Johnson, our outside legal counsel. In the meantime, another party to this litigation who intervened and has filed a Memorandum of Law in Opposition to the Defendants' Joint Motion to Vacate the Court's Order of May 5, 1999 granting the original Plaintiffs' Motion for Summary Judgment. The interveners' Motion to Vacate remains pending.

5. **Seventy-Five East, Inc. and Griffin-Orange North, Inc. v. Town of Davie:** A Final Hearing on the Petition for Writ of Certiorari will be conducted sometime during the Court's 4 week trial docket commencing July 30, 2001. It is anticipated that it should be the early part of August, 2001. Mr. Burke anticipates that oral argument on the Motions will take approximately 1/2 day and as the 4 week trial docket commencing July 30, 2001 approaches, he will advise us as to the exact date when the oral argument will take place.
6. **MVP Properties, Inc.:** The Town of Davie's Motion for Summary Judgment continues pending. Both sides have filed a Memorandum of Law in support of their respective positions in this case. Mr. Burke anticipates that this matter will go to trial around December, 2001.
7. **Cummings v. Town of Davie:** On Wednesday, April 4, 2001, the Davie Town Council had a closed session to discuss settlement and resolution of the above referenced matter. Then, after the closed session, the Town Council voted to approve one of the two settlement proposals offered by the Plaintiffs. The full terms of the settlement agreement are set forth in a letter from the Town Attorney's Office to Laura N. Camp, Esquire of Brigham Moore law firm. The attorney for the Plaintiff, Laura N. Camp has prepared the initial draft of the Stipulation of Settlement which the Town Attorney's Office has received and reviewed. The Town Attorney's Office is in the process of preparing its own draft of the Stipulation of Settlement which it will in turn, send back to Ms. Camp.
8. **Department of Community Affairs v. Town of Davie:** The Stipulated Settlement Agreement presented to the Town Council was signed by the Mayor and approved as to form by the Town Attorney. It was thereafter submitted to the Department of Community Affairs for its execution and thereafter, submitted to the Court which approved same. This matter has been abated pursuant to the Court's Order, to allow the parties to comply with the provisions of the Stipulated Settlement Agreement. An Ordinance has been prepared by the Town Staff amending the Code of Ordinances by creating Sections 12-32.100 through 12-32.016 entitled "Community Business Center District". This Ordinance will thereafter be presented to the Town Council for its review and approval. The Local Planning Agency voted to approve this Ordinance at its May 9, 2001 meeting. The Initiation of this Amendment to the Code of Ordinances is in compliance with the provisions of the Stipulated Settlement Agreement.
9. **Town of Davie v. Malka:** The Town Attorney's office has been in contact with the Code Enforcement Officer, Mr. Daniel Stallone. Mr. Stallone, has indicated that upon his latest

visit to the Malka property, observed that the Malkas are proceeding in an effort to complete the construction of the exterior of their residence. Nevertheless, Mr. Stallone has initiated proceedings to bring this matter before the Unsafe Structures Board in case the Malkas fail to complete the outside structure as they promised. This matter is scheduled to come before the Unsafe Structures Board near the end of this month. It is anticipated however, that the Malkas will complete the exterior project prior to the meeting of the Unsafe Structures Board or shortly thereafter. It should be noted that there is still time remaining on the 6 month building permit currently issued to the Malkas. Mr. Stallone has confirmed however, that the Malkas will not be granted any additional extensions beyond the current 6 month permit.

10. **City of Pompano Beach, Davie, at el v. Florida Department of Agriculture and Consumer Services:** The Florida Department of Agriculture has filed an appeal of Judge Fleet's Order in which the Judge ruled in favor of Davie, the County and the other cities enjoining the Florida Department of Agriculture and Consumer Services from further cutting of healthy citrus trees in Broward County. The Florida Department of Agriculture requested that oral argument be permitted in these proceedings and oral argument is now scheduled for June 6, 2001. The Department of Agriculture had been actively cutting down both ill and healthy citrus trees prior to Judge Fleet's Order and for the last 3 months they had ceased all cutting. Approximately 2 weeks ago the Department once again aggressively resumed the cutting down of infected citrus trees in northern Broward County. The Stay which remains in effect however, continues to protect healthy trees within a 1900 foot radius of any infected citrus trees.
11. **Christina Mackenzie Maranon v. Town of Davie:** The Town of Davie has filed a Motion for Summary Final Judgment on behalf of the Town of Davie and Police Officer Quentin Taylor seeking to dismiss both parties as defendants in this lawsuit. The Motion for Summary Judgment continues to remain pending. In the meantime, the Court has removed the case from the trial docket pending its ruling on our Motion for Summary Judgment. There is a good likelihood therefore, that even if our Motion for Summary Judgment is not granted, that this lawsuit will not be heard before the end of the year, should it in fact go to trial.